

103^D CONGRESS
1ST SESSION

S. 934

To amend title XVIII of the Social Security Act to permit medicare select policies in all States and to modify the requirements with respect to such policies.

IN THE SENATE OF THE UNITED STATES

MAY 11 (legislative day, APRIL 19), 1993

Mr. CHAFEE introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to permit medicare select policies in all States and to modify the requirements with respect to such policies.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. MEDICARE SELECT.**

4 (a) AMENDMENTS TO PROVISIONS RELATING TO
5 MEDICARE SELECT POLICIES.—

6 (1) PERMITTING MEDICARE SELECT POLICIES
7 IN ALL STATES.—

1 (A) IN GENERAL.—Subsection (c) of sec-
2 tion 4358 of the Omnibus Budget Reconcili-
3 ation Act of 1990 is hereby repealed.

4 (B) CONFORMING AMENDMENT.—Section
5 4358 of the Omnibus Budget Reconciliation Act
6 of 1990 is amended by redesignating subsection
7 (d) as subsection (c).

8 (2) REQUIREMENTS OF MEDICARE SELECT
9 POLICIES.—Section 1882(t)(1) of the Social Security
10 Act (42 U.S.C. 1395ss(t)(1)) is amended to read as
11 follows:

12 “(1)(A) If a medicare supplemental policy meets the
13 1991 NAIC Model Regulation or 1991 Federal Regulation
14 and otherwise complies with the requirements of this sec-
15 tion except that—

16 “(i) the benefits under such policy are re-
17 stricted to items and services furnished by certain
18 entities (or reduced benefits are provided when items
19 or services are furnished by other entities), and

20 “(ii) in the case of a policy described in sub-
21 paragraph (C)(i)—

22 “(I) the benefits under such policy are not
23 one of the groups or packages of benefits de-
24 scribed in subsection (p)(2)(A),

1 “(II) except for nominal copayments im-
2 posed for services covered under part B of this
3 title, such benefits include at least the core
4 group of basic benefits described in subsection
5 (p)(2)(B), and

6 “(III) an enrollee’s liability under such pol-
7 icy for physician’s services covered under part
8 B of this title is limited to the nominal
9 copayments described in subclause (II),
10 the policy shall nevertheless be treated as meeting those
11 standards if the policy meets the requirements of subpara-
12 graph (B).

13 “(B) A policy meets the requirements of this sub-
14 paragraph if—

15 “(i) full benefits are provided for items and
16 services furnished through a network of entities
17 which have entered into contracts or agreements
18 with the issuer of the policy,

19 “(ii) full benefits are provided for items and
20 services furnished by other entities if the services are
21 medically necessary and immediately required be-
22 cause of an unforeseen illness, injury, or condition
23 and it is not reasonable given the circumstances to
24 obtain the services through the network,

25 “(iii) the network offers sufficient access,

1 “(iv) the issuer of the policy has arrangements
2 for an ongoing quality assurance program for items
3 and services furnished through the network,

4 “(v)(I) the issuer of the policy provides to each
5 enrollee at the time of enrollment an explanation
6 of—

7 “(aa) the restrictions on payment under
8 the policy for services furnished other than by
9 or through the network,

10 “(bb) out of area coverage under the pol-
11 icy,

12 “(cc) the policy’s coverage of emergency
13 services and urgently needed care, and

14 “(dd) the availability of a policy through
15 the entity that meets the 1991 Model NAIC
16 Regulation or 1991 Federal Regulation without
17 regard to this subsection and the premium
18 charged for such policy, and

19 “(II) each enrollee prior to enrollment acknowl-
20 edges receipt of the explanation provided under
21 subclause (I), and

22 “(vi) the issuer of the policy makes available to
23 individuals, in addition to the policy described in this
24 subsection, any policy (otherwise offered by the is-
25 suer to individuals in the State) that meets the 1991

1 Model NAIC Regulation or 1991 Federal Regulation
2 and other requirements of this section without re-
3 gard to this subsection.

4 “(C)(i) A policy described in this subparagraph—

5 “(I) is offered by an eligible organization (as
6 defined in section 1876(b)),

7 “(II) is not a policy or plan providing benefits
8 pursuant to a contract under section 1876 or an ap-
9 proved demonstration project described in section
10 603(c) of the Social Security Amendments of 1983,
11 section 2355 of the Deficit Reduction Act of 1984,
12 or section 9412(b) of the Omnibus Budget Reconcili-
13 ation Act of 1986, and

14 “(III) provides benefits which, when combined
15 with benefits which are available under this title, are
16 substantially similar to benefits under policies of-
17 fered to individuals who are not entitled to benefits
18 under this title.

19 “(ii) In making a determination under subclause (III)
20 of clause (i) as to whether certain benefits are substan-
21 tially similar, there shall not be taken into account, except
22 in the case of preventive services, benefits provided under
23 policies offered to individuals who are not entitled to bene-
24 fits under this title which are in addition to the benefits
25 covered by this title and which are benefits an entity must

1 provide in order to meet the definition of an eligible orga-
2 nization under section 1876(b)(1).”.

3 (b) RENEWABILITY OF MEDICARE SELECT POLI-
4 CIES.—Section 1882(q)(1) of the Social Security Act (42
5 U.S.C. 1395ss(q)(1)) is amended:

6 (1) by striking “(1) Each” and inserting
7 “(1)(A) Except as provided in subparagraph (B),
8 each”;

9 (2) by redesignating subparagraphs (A) and
10 (B) as clauses (i) and (ii), respectively; and

11 (3) by adding at the end the following new sub-
12 paragraph:

13 “(B)(i) Except as provided in clause (ii), in the
14 case of a policy that meets the requirements of sub-
15 section (t), an issuer may cancel or nonrenew such
16 policy with respect to an individual who leaves the
17 service area of such policy.

18 “(ii) If an individual described in clause (i)
19 moves to a geographic area where an issuer de-
20 scribed in clause (i), or where an affiliate of such is-
21 suer, is issuing medicare supplemental policies, such
22 individual must be permitted to enroll in any medi-
23 care supplemental policy offered by such issuer or
24 affiliate that provides benefits comparable to or less
25 than the benefits provided in the policy being can-

1 celed or nonrenewed. An individual whose coverage
 2 is canceled or nonrenewed under this subparagraph
 3 shall, as part of the notice of termination or
 4 nonrenewal, be notified of the right to enroll in other
 5 medicare supplemental policies offered by the issuer
 6 or its affiliates.

7 “(iii) For purposes of this subparagraph, the
 8 term ‘affiliate’ shall have the meaning given such
 9 term by the 1991 NAIC Model Regulation.”.

10 (c) CIVIL PENALTY.—Section 1882(t)(2) of the So-
 11 cial Security Act (42 U.S.C. 1395ss(t)(2)) is amended—

12 (1) by striking “(2)” and inserting “(2)(A)”;

13 (2) by redesignating subparagraphs (A), (B),
 14 (C), and (D) as clauses (i), (ii), (iii), and (iv), re-
 15 spectively;

16 (3) in clause (iv), as redesignated—

17 (A) by striking “paragraph (1)(E)(i)” and
 18 inserting “paragraph (1)(B)(v)(I); and

19 (B) by striking “paragraph (1)(E)(ii)” and
 20 inserting “paragraph (1)(B)(v)(II)”;

21 (4) by striking “the previous sentence” and in-
 22 serting “this subparagraph”; and

23 (5) by inserting at the end the following new
 24 subparagraph:

1 “(B) If the Secretary determines that an issuer of
2 a policy approved under paragraph (1) has made a mis-
3 representation to the Secretary or has provided the Sec-
4 retary with false information regarding such policy, the
5 issuer is subject to a civil money penalty in an amount
6 not to exceed \$100,000 for each such determination. The
7 provisions of section 1128A (other than the first sentence
8 of subsection (a) and other than subsection (b)) shall
9 apply to a civil money penalty under this subparagraph
10 in the same manner as such provisions apply to a penalty
11 or proceeding under section 1128A(a).”.

12 (d) EFFECTIVE DATES.—

13 (1) NAIC STANDARDS.—If, within 6 months
14 after the date of the enactment of this Act, the Na-
15 tional Association of Insurance Commissioners
16 (hereafter in this subsection referred to as the
17 “NAIC”) makes changes in the 1991 NAIC Model
18 Regulation (as defined in section 1882(p)(1)(A) of
19 the Social Security Act) to incorporate the additional
20 requirements imposed by the amendments made by
21 this section, section 1882(g)(2)(A) of such Act shall
22 be applied in each State, effective for policies issued
23 to policyholders on and after the date specified in
24 paragraph (3), as if the reference to the Model Reg-
25 ulation adopted on June 6, 1979, were a reference

1 to the 1991 NAIC Model Regulation (as so defined)
2 as changed under this paragraph (such changed
3 Regulation referred to in this subsection as the
4 “1994 NAIC Model Regulation”).

5 (2) SECRETARY STANDARDS.—If the NAIC
6 does not make changes in the 1991 NAIC Model
7 Regulation (as so defined) within the 6-month period
8 specified in paragraph (1), the Secretary of Health
9 and Human Services (hereafter in this subsection as
10 the “Secretary”) shall promulgate a regulation and
11 section 1882(g)(2)(A) of the Social Security Act
12 shall be applied in each State, effective for policies
13 issued to policyholders on and after the date speci-
14 fied in paragraph (3), as if the reference to the
15 Model Regulation adopted in June 6, 1979, were a
16 reference to the 1991 NAIC Model Regulation (as so
17 defined) as changed by the Secretary under this
18 paragraph (such changed Regulation referred to in
19 this subsection as the “1994 Federal Regulation”).

20 (3) DATE SPECIFIED.—

21 (A) IN GENERAL.—Subject to subpara-
22 graph (B), the date specified in this paragraph
23 for a State is the earlier of—

1 (i) the date the State adopts the 1994
2 NAIC Model Regulation or the 1994 Fed-
3 eral Regulation, or

4 (ii) 1 year after the date the NAIC or
5 the Secretary first adopts such regulations.

6 (B) ADDITIONAL LEGISLATIVE ACTION RE-
7 QUIRED.—In the case of a State which the Sec-
8 retary identifies, in consultation with the NAIC,
9 as—

10 (i) requiring State legislation (other
11 than legislation appropriating funds) in
12 order for medicare supplemental policies to
13 meet the 1994 NAIC Model Regulation or
14 the 1994 Federal Regulation, but

15 (ii) having a legislature which is not
16 scheduled to meet in 1995 in a legislative
17 session in which such legislation may be
18 considered, the date specified in this para-
19 graph is the first day of the first calendar
20 quarter beginning after the close of the
21 first legislative session of the State legisla-
22 ture that begins on or after January 1,
23 1995. For purposes of the previous sen-
24 tence, in the case of a State that has a 2-
25 year legislative session, each year of such

- 1 session shall be deemed to be a separate
- 2 regular session of the State legislature.

